

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:09-cv-00257**

VICTOR B. WHITE,

Plaintiff,

vs.

**ANTHONY SMEREKA, ANTOINE
TAYLOR, JOSEPH MOSS, KAREN
MCRAE, STEPHANIE SMITH,
JOSEPH PAULK, ANGELA
CHILDS, PAM TIMMER, and CITY
OF CHARLOTTE,**

Defendants.

ORDER

THIS MATTER is before the Court *sua sponte* as to the status of this case. Plaintiff filed this action alleging causes of action against nine Defendants, all of whom appear in the caption of this case.¹ The original action was filed June 29, 2009 (Doc. No. 1). Some, but not all, Defendants subsequently moved to dismiss the claims against them (Docs. Nos. 20, 24, 25), and the Court promptly set a hearing on these motions for October 7, 2009 (Doc. No. 27). After these motions had been filed but prior to the October hearing, Plaintiff moved to amend his Complaint (Doc. No. 39). At the hearing on October 7, 2009, the Court granted Plaintiff leave to file his Amended Complaint, granted the parties' motions to renew their pending motions to dismiss, and specifically found that allowing Plaintiff's amendments to the Complaint did not moot the pending motions to dismiss because the Court could resolve the arguments raised as they pertained to the Amended Complaint without the need for additional briefing. Following the hearing on the pending motions to dismiss, the Court issued an oral ruling to grant the motions (Docs. Nos. 20, 24, 25), thereby dismissing all

¹Defendant McRae was originally identified as "Ms. Sergeant" in Plaintiff's original Complaint, which was later amended to reflect her true name Karen McRae.

of Plaintiff's claims against Defendants Taylor, Moss, Smith, Paulk, Childs, Timmer, and McRae.

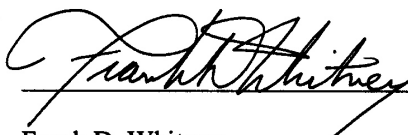
The two remaining Defendants (Smereka and the City of Charlotte) subsequently moved to dismiss (Docs. Nos. 47, 50). Defendant Smereka moved to dismiss for failure to properly serve the Complaint and for failure to state a claim (Doc. No. 47). Ruling on the service issue as a threshold matter, the Court denied that portion of the motion, concluding that Defendant had waived that defense. (Doc. No. 63). The Court, however, granted the motion to dismiss based on Plaintiff's failure to state a plausible claim for relief. (Doc. No. 63). In the same order, the Court granted the City of Charlotte's motion to dismiss. (Doc. No. 63). Consequently, the claims against both of the remaining Defendants were dismissed.

It appears to the Court that all claims against all Defendants have been dismissed, either by the Court's oral ruling on October 7, 2009, or by the written order issued June 14, 2010 (Doc. No. 63).

IT IS THEREFORE ORDERED that the Clerk's office is DIRECTED to CLOSE THE CASE and issue judgment accordingly. The Clerk is also directed to send copies of this Order and Notice to counsel for Defendants and to the *pro se* Plaintiff at his address of record, that is, Victor B. White, 1222 Rama Road, Charlotte, North Carolina 28211.

SO ORDERED.

Signed: August 17, 2010


Frank D. Whitney
United States District Judge

